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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 GERALD S. COMPLITA,

9 Petitioner,

10 v.

11 JEFFREY A. UTTECHT,

12 Respondent.

CASE NO. C19-5285 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 16, and
15 Petitioner Gerald Complita’s (“Complita”) objections to the R&R, Dkt. 17.

16 On July 9, 2019, Judge Christel issued the R&R recommending that the Court
17 dismiss Complita’s petition without prejudice for failure to exhaust. Dkt. 16. On July
18 22, 2019, Complita filed objections. Dkt. 17.

19 The district judge must determine de novo any part of the magistrate judge’s
20 disposition that has been properly objected to. The district judge may accept, reject, or
21 modify the recommended disposition; receive further evidence; or return the matter to the
22 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

1 In this case, Complita contests the well-settled and binding precedent that he must
2 exhaust his state court remedies before seeking relief in a federal habeas petition. Dkt.
3 17. Complita's argument do not persuade the Court to carve out an exception to "one of
4 the pillars of federal habeas corpus jurisprudence." *Calderon v. U.S. Dist. Court for N.*
5 *Dist. of California*, 134 F.3d 981, 984 (9th Cir. 1998). Therefore, the Court having
6 considered the R&R, Complita's objections, and the remaining record, does hereby find
7 and order as follows:

- 8 (1) The R&R is **ADOPTED**;
- 9 (2) Complita's petition is **DISMISSED without prejudice**;
- 10 (3) A Certificate of Appealability is **DENIED**; and
- 11 (4) The Clerk shall enter a **JUDGMENT** and close the case.

12 Dated this 6th day of September, 2019.

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15 BENJAMIN H. SETTLE
16 United States District Judge
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